

E-Note # 146 CalFresh Use of the Recalculated CalWORKs Grant in Calculating CalFresh Overissuance Arising Out of Same Circumstances

February 21, 2018

References: ACL 12-25 (May 17, 2012) Implementation of The Semi-Annual Reporting (SAR) System in The California Work Opportunity and Responsibility to Kids (CalWORKs) And CalFresh Programs; ACIN I-16-05 (April 4, 2005) Food Stamp Questions and Answers; ACIN I-60-96 (November 26, 1996) Administrative Hearing Rulings Involving Aid to Families With Dependent Children (AFDC) Program Overpayments

This E-Note is intended to provide policy interpretation for *both* administrative error (AE) and claimant-caused overpayments/overissuances. **It is effectively immediately, and applies to all pending county actions and administrative hearings as of the date of this E-Note.** *Note this E-Note does not establish new policy, rather provides clarification on existing policy. Any decision not consistent with the below must be written as a Proposed Decision.*

ACIN I-16-05, "Food Stamp Questions and Answers," Page 12 states, "the statement in ACL 03-18, page 70, about using the recalculated CalWORKs grant when computing an O/I or U/I, is incorrect, and that since CalWORKs grants are known-to-county information and not subject to recipient reporting, a recalculated grant is not required." In finding that a recalculated CalWORKs grant need not be used in calculating the CalFresh OI, the ACIN states, "counties are to use the actual amount that was anticipated with reasonable certainty or that was reasonably anticipated." **CDSS believes this analysis is incorrect as it is contrary to the intent of federal SNAP regulations, and that this answer in the ACIN has since been superseded by ACL 12-25.** (The remainder of the ACIN is not affected.)

Under federal SNAP regulations, a CalFresh OI is calculated by determining "the correct amount of benefits for each month that a household received an overpayment" and subtracting "the correct amount of benefits from the benefits actually received." (See 7 C.F.R. § 273.18(c)(1)(ii)(A), (C).) In promulgating this final rule, FNS states, "[w]hen a claim is calculated, the State agency determines the correct amount of food stamp benefits for the months in question. This covers circumstances directly relating to the cause of the claim that cause underpayments as well as overpayments." (65 Fed.Reg. 41752-41780 (July 6, 2000).) Since the change in CalWORKs is a circumstance

“directly relating to the cause of the claim” (for example, a higher income level or county error), it should be taken into account when recalculating the correct CalFresh benefit amount for the given month.

ACL 12-25 on Semi-Annual Reporting states “the CWD (county welfare department) shall re-determine the benefits the recipient would have received based on an accurate report and correct county action.” The CWD must take the correct information and recalculate all grants/issuances before determining the CalFresh overissuance. This interpretation is consistent with the requirement that counties “recreate case circumstances” because the county is responsible for determining the correct benefit amounts for both CalWORKs and CalFresh – both should be considered “case circumstances”.

When recreating case circumstance, the “reasonably anticipated” income (RAI) language refers to sources of income that recipients are required to report on, at application, recertification and periodic report, or SAR-7. This is income *other than* CalWORKs, CalFresh, and Medi-Cal benefits. CalWORKs income is not considered RAI. It is the responsibility of the county, not the recipient, to determine, anticipate, and report CalWORKs grant amounts.

In conclusion, based on Federal regulation and ACL 12-25, the CalFresh OI calculation must be based on the corrected (recalculated) CalWORKs grant amount.

Para-reg # 292-7G, which summarized the answer on p. 12 of ACIN I-16-05, will be revised to reflect the policy in ACL 12-25, at the next para-reg update.